

# In the Court of Appeals of the State of Alaska

**Kevin S. Patterson,**  
Appellant,

v.

**State of Alaska,**  
Appellee.

Court of Appeals No. **A-13858**

## **Order**

Extend Time to File Brief

Date of Order: **November 22, 2022**

Trial Court Case No. **3KN-10-00057CR**

Before: Wollenberg and Harbison, Judges

Kevin Scott Patterson, through counsel Michael Horowitz, has filed two requests for extensions to file the opening brief in this case. In both motions, Mr. Horowitz requests additional time beyond the 390-day limit set by Standing Order No. 12.

Under Standing Order No. 12, if a party's extension request exceeds the applicable limit, the party's motion must specify "the extraordinary and unforeseeable circumstances that justify extending the briefing deadline beyond the Court's limits." Mr. Horowitz's motions do not satisfy this standard.

In the affidavit accompanying the first motion, requesting a 7-day extension, Mr. Horowitz states only that he was unable to meet the deadline "because of other obligations including a petition for hearing to the Alaska Supreme Court and a CINA appeal." Mr. Horowitz provides no additional detail about these two cases or his other obligations, nor does he explain why these other cases precluded him from completing the opening brief in this case in the six months since he entered his appearance on May 20, 2022.

*Patterson v. State* - p. 2  
File No. A-13858  
November 22, 2022

In the second motion, which Mr. Horowitz filed yesterday prior to today's requested deadline, Mr. Horowitz seeks an additional 8 days to file the opening brief. In the affidavit accompanying the motion, Mr. Horowitz states that an extension is necessary because his briefing required additional consultation with the Public Defender Agency and Mr. Patterson, Mr. Patterson was unavailable yesterday due to illness, and given the holiday week, Mr. Horowitz "do[es] not expect that the PDA will be able to review and edit [the] brief until after Thanksgiving." Mr. Horowitz does not indicate whether he actually determined that an Agency attorney was unavailable for editing this week, or whether an attorney will be available for editing before the next requested deadline. It is not even clear to the Court if a draft of the brief is complete or near complete.

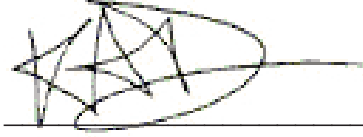
These affidavits are insufficient to support the requested extensions. We note that Mr. Horowitz is a contract attorney, and therefore has control over the number of cases he accepts. Thus, as a general matter, he should not accept cases unless he is able to meet the required deadlines, and he should not take longer to file briefs than the Agency staff attorneys his work is intended to relieve.

Accordingly, the requests for extensions to file the opening brief are **DENIED**. However, Mr. Horowitz may renew his requests in a manner that complies with Standing Order No. 12.

Entered at the direction of the Court.

*Patterson v. State* - p. 3  
File No. A-13858  
November 22, 2022

Clerk of the Appellate Courts

A handwritten signature in black ink, appearing to read 'Kaitlin D'Eimon', written over a horizontal line.

Kaitlin D'Eimon, Deputy Clerk

cc: Renee McFarland, Deputy Public Defender

Distribution:

Email:

Horowitz, Michael L.

Soderstrom, Donald